

**MIRARIS RUTH PAZ - March 19, 2010**

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF TEXAS 3 HOUSTON DIVISION</p> <p>3 PABLO PAZ, INDIVIDUALLY ) 4 AND A/N/F JANE DOE, A ) 5 MINOR, AND RUTH PAZ, )</p> <p>5 VS. ) CIVIL ACTION</p> <p>6 NO.: 4:09-CV-2804</p> <p>6 LIFE TIME FITNESS, INC., ) 7 LTF CMBS 1, LLC, LTF CLUB ) 8 MANAGEMENT COMPANY, LLC, ) 9 LTF CLUB OPERATIONS ) COMPANY, INC. And GENE ) SMITH )</p> <p>10 -----</p> <p>11 ORAL AND VIDEOTAPED DEPOSITION OF</p> <p>12 MIRARIS RUTH PAZ</p> <p>13 MARCH 19, 2010</p> <p>14 Volume 1</p> <p>15 -----</p> <p>16</p> <p>17</p> <p>18 ORAL AND VIDEOTAPED DEPOSITION OF MIRARIS RUTH PAZ, 19 produced as a witness at the instance of the Defendants, 20 and duly sworn, was taken in the above-styled and 21 numbered cause on the 19th of March, 2010, from 1:42 22 p.m. to 2:30 p.m., before Kevin J. Bruzewski, CSR in and 23 for the State of Texas, reported by machine shorthand, 24 at the law offices of The Callahan Law Firm, 440 25 Louisiana, 440 Louisiana, Suite 2000, Houston, Texas 77002, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.</p>	<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 PAGE</p> <p>3 Appearances..... 2</p> <p>4 Stipulations..... 4</p> <p>5 MIRARIS RUTH PAZ</p> <p>6 Examination by Mr. Sheiness..... 4</p> <p>7 Signature and Changes.....39</p> <p>8 Reporter's Certificate.....40</p> <p>9</p> <p>10 EXHIBITS</p> <p>11 NO. DESCRIPTION PAGE</p> <p>12 1 Copy of Participation Agreement 21</p> <p>13</p> <p>14 REQUESTED ITEMS</p> <p>15 NO. DESCRIPTION PAGE</p> <p>16 1 All right. And now, so I'm going to 27</p> <p>17 request the date of starting the Kids College</p> <p>18 2 And I request her number (Becky McKay) 40</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 MR. CASEY BROWN</p> <p>5 The Callahan Law Firm</p> <p>6 440 Louisiana, Suite 2000</p> <p>7 Houston, Texas 77002</p> <p>8</p> <p>9 FOR THE DEFENDANTS LIFE TIME FITNESS, INC., LTF CMBS 1,</p> <p>10 LLC, LTF CLUB MANAGEMENT COMPANY, LLC, LTF CLUB</p> <p>11 OPERATIONS COMPANY, INC. And GENE SMITH:</p> <p>12</p> <p>13 MR. MARC A. SHEINESS</p> <p>14 Sheiness, Scott, Grossman &amp; Cohn, LLP</p> <p>15 1001 McKinney, Suite 1400</p> <p>16 Houston, Texas 77002-6323</p> <p>17 713.374.7005</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 Mr. Pablo Paz</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 PROCEEDINGS</p> <p>2 VIDEOGRAPHER: We're on the record.</p> <p>3 Today's date is Friday, March the 19th, year 2010. The</p> <p>4 time is 1:42 p.m.</p> <p>5 COURT REPORTER: Stipulations for the</p> <p>6 record?</p> <p>7 MR. SHEINESS: You want her to read and</p> <p>8 sign?</p> <p>9 MR. BROWN: Yeah.</p> <p>10</p> <p>11 *****</p> <p>12 MIRARIS RUTH PAZ, witness,</p> <p>13 having been first duly sworn, testified as follows,</p> <p>14 to-wit:</p> <p>15 EXAMINATION</p> <p>16 BY MR. SHEINESS:</p> <p>17 Q. Would you please state your full name for the</p> <p>18 record, please, ma'am?</p> <p>19 A. <b>Miraris Ruth Paz.</b></p> <p>20 Q. Ms. Paz, you sat here while I took the</p> <p>21 deposition your daughter?</p> <p>22 A. <b>Yes, I did.</b></p> <p>23 Q. Okay. You understand what a deposition is?</p> <p>24 A. <b>Yes, I do.</b></p> <p>25 Q. I want you to listen to my questions. I'm not</p>

**EXHIBIT****A**

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<p style="text-align: right;">Page 5</p> <p>1 going to ask that many, but if you don't understand my 2 question, then don't answer it. Tell me you don't 3 understand it and I'll repeat it as many times as 4 necessary until we get it straight; okay? 5 <b>A. Okay.</b> 6 Q. Okay. Have you ever given your deposition 7 testimony before? 8 <b>A. No.</b> 9 Q. The medical bills that have been incurred by 10 your daughter -- 11 <b>A. Uh-huh.</b> 12 Q. -- who has paid them? 13 <b>A. We have.</b> 14 Q. Did the facility Life Time have -- did you turn 15 any bills into them? 16 <b>A. No, we haven't.</b> 17 Q. Were you told not to, told you could or just 18 never did? 19 <b>A. Never did.</b> 20 Q. Okay. When you say we have paid them, what do 21 you mean by that? 22 <b>A. My husband and I and the insurance company.</b> 23 Q. Okay. On the medical bills, have you and your 24 husband outlaid any actual cash yourselves? 25 <b>A. Yes.</b></p>	<p style="text-align: right;">Page 7</p> <p>1 MR. BROWN: That's fine. 2 MR. SHEINESS: -- make a copy. 3 MR. BROWN: Do you want to take a break 4 or can we do it -- 5 MR. SHEINESS: No, just later. 6 MR. BROWN: Okay. 7 BY MR. SHEINESS: 8 Q. Okay. I was going to ask y'all that, but we 9 don't need it on the record so. I don't know who reads 10 these things anyway any more but... 11 But you have a deductible. 12 MR. SHEINESS: Does it show a deductible on 13 there? Sometimes they do. 14 BY MR. SHEINESS: 15 Q. Well, no. 16 Okay. The medical records that I have on 17 your daughter -- 18 <b>A. Uh-huh.</b> 19 Q. -- the last medical record I have is Dr. Brock, 20 November of '09. 21 <b>A. Uh-huh.</b> 22 Q. Has she been back to see him since then? 23 <b>A. No.</b> 24 Q. Okay. I see where in November 8th of '09 she 25 had to go see the nurse at the school for laceration or</p>
<p style="text-align: right;">Page 6</p> <p>1 Q. Is that the co-pay? 2 <b>A. The co-pay and coinsurance and deductible.</b> 3 Q. Okay. If you had to estimate your deductible 4 and your co-pays, all the payments, what number would 5 you guesstimate you've paid? 6 <b>A. I have no idea.</b> 7 Q. Okay. Whose insurance are we charging all 8 these bills to? 9 <b>A. Aetna.</b> 10 Q. Aetna. 11 Okay. And do you have with you the card, 12 the insurance card? 13 <b>A. Yes, I do.</b> 14 Q. Would you hand that to me? 15 <b>A. It's in my purse.</b> 16 Q. Okay. See, your husband is like me, never go 17 into a woman's purse. Never. 18 <b>A. (Tendering).</b> 19 Q. Thank you, ma'am. I tell you what, I'm going 20 to ask Casey. 21 MR. SHEINESS: If you don't mind, if you 22 would just make a copy of this. I will not attach it as 23 an exhibit, but I don't have to write it all down and so 24 I can order the records or bills from this if you 25 will --</p>	<p style="text-align: right;">Page 8</p> <p>1 abrasion as a result of trauma. 2 Were you aware of that? 3 <b>A. No.</b> 4 Q. Okay. I did not bring the actual record, I 5 just brought my summary. But I know it's typically the 6 policy of most schools that if you have -- a child has 7 to visit the nurse, then the mother, the parents are 8 supposed to know about it. I didn't -- 9 <b>A. Right.</b> 10 Q. And I'm not trying to blame anybody, I just 11 want to know. Do you know anything about that 12 particular event? That's all I know or at least I 13 didn't bring the records. 14 See where I've got it circled? 15 <b>A. Yeah.</b> 16 Q. November of '09. 17 MR. BROWN: It's actually December, Marc. 18 MR. SHEINESS: I said that. November last 19 saw the doctor. December -- 20 MR. BROWN: Okay. 21 MR. SHEINESS: You're right. December. 22 BY MR. SHEINESS: 23 Q. Whatever date is there, you don't recall being 24 told about going there? 25 <b>A. No.</b></p>

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<p style="text-align: right;">Page 9</p> <p>1 Q. I also have February of this year, the last 2 record I have from the school, another visit to the 3 nurse. 4 Are you aware of that one? 5 <b>A. Yes, I am.</b> 6 Q. Okay. Do you know if she has been to see any 7 health care provider at the school, anywhere for a 8 traumatic event since December of '08 of '09 -- of '09? 9 <b>A. I took her to the pediatrician for a bladder 10 infection.</b> 11 Q. Okay. And who is the name of the pediatrician? 12 <b>A. Deborah Bootin.</b> 13 Q. Can you can you spell the last name? 14 <b>A. B-O-O-T-I-N.</b> 15 Q. And what, Sugar Land, Houston? 16 <b>A. Medical center.</b> 17 Q. Medical center. 18 When was this? 19 <b>A. That was the day on that --</b> 20 Q. Oh. 21 <b>A. That same day.</b> 22 Q. February 5th of '10? 23 <b>A. Yes.</b> 24 Q. Okay. Has she seen -- who is her primary care 25 physician?</p>	<p style="text-align: right;">Page 11</p> <p>1 Is that one of these Medi center clinics? 2 <b>A. Yes. It's closer to the house.</b> 3 Q. Okay. There's a whole group of them around 4 town? 5 <b>A. Right.</b> 6 Q. Okay. 7 <b>A. It's called Medi Clinic on Highway 6.</b> 8 Q. Oh, okay. 9 Any other doctors she's seen other than 10 Dr. Brock, Dr. Bootin and the doctors at the medical 11 clinic that you can think of other than dentist? 12 <b>A. Dentist?</b> 13 Q. Other than a dentist. 14 <b>A. Other than a dentist.</b> 15 Q. In the last -- since the accident? 16 <b>A. We've seen two other doctors. Before the 17 surgery, I wanted to get a second opinion so I got two 18 extra opinions -- two opinions from other doctors.</b> 19 Q. Who were they? 20 <b>A. I don't have their name.</b> 21 Q. I might. 22 <b>A. Dr. --</b> 23 Q. One was at -- never mind. One was Antekeier, 24 A-N-T-E-K-E-I-E-R? 25 <b>A. Yes.</b></p>
<p style="text-align: right;">Page 10</p> <p>1 <b>A. Dr. Bootin.</b> 2 Q. Okay. And so for the last two or three years 3 for anything you've had to have her seen somebody, it's 4 either Dr. Bootin -- 5 <b>A. Uh-huh.</b> 6 Q. -- or the orthopedic doctor? 7 <b>A. The orthopedic doctor and then there is some 8 other doctors that she's also seen.</b> 9 Q. Who else? Dr. Brock, Dr. Bootin and who else? 10 Now, are you talking about other doctors at 11 Fondren or other doctors somewhere else? 12 <b>A. Somewhere else.</b> 13 Q. All right. Tell me what other doctors she's 14 seen in the last couple years and for what reason? 15 <b>A. There's a clinic. I don't know the name. It's 16 called Medi Clinic. I don't know the doctor's name. 17 He's a -- starts with a "G," but we've seen him for like 18 allergies and sore throat, things like that.</b> 19 Q. Okay. And would you be able to find out within 20 the next few days -- 21 <b>A. Oh, yes.</b> 22 Q. -- the name of the clinic? 23 <b>A. Uh-huh.</b> 24 Q. Let me get the whole question in. 25 The name of the clinic and address?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Okay. 2 <b>A. He's a pediatric orthopedic.</b> 3 Q. Right. 4 <b>A. And I wanted to go somewhere outside the 5 medical center area.</b> 6 Q. You went to Texas Childrens? 7 <b>A. Texas Children, right.</b> 8 Q. Okay. 9 <b>A. And I wanted to get his opinion based on the 10 MRI and everything before we did anything.</b> 11 Q. And he wrote a report, I think? 12 <b>A. Yes, he did.</b> 13 Q. I've seen it. 14 Okay. Is there still another doctor? 15 <b>A. There was another doctor. I don't remember his 16 name.</b> 17 Q. All right. We're going to -- if you think 18 about it or I'll write Casey. 19 <b>A. Okay.</b> 20 Q. -- and ask if you can come up with his name. 21 And was that before the surgery as well? 22 <b>A. Before the surgery.</b> 23 Q. Okay. 24 <b>A. And actually I took her right after Dr. Brock 25 took her off the -- took the cast off just for a second</b></p>

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<p style="text-align: right;">Page 13</p> <p>1 <b>opinion to make sure that everything was okay and just</b>  2 <b>to get a second opinion. That was it.</b>  3 Q. Okay. Now, so all the medical bills have been  4 paid by Aetna minus deductible and co-pay and they have  5 been paid up to date?  6 <b>A. Yes.</b>  7 Q. As far as you know?  8 <b>A. Yes, as far as I know.</b>  9 Q. No one has been hounding you on any outstanding  10 medical bills?  11 <b>A. I don't believe so.</b>  12 Q. Okay.  13 <b>A. I don't pay the bills.</b>  14 Q. I need to ask the boss man here, Petron?  15 <b>A. Uh-huh.</b>  16 Q. You heard your daughter describe the fact that  17 unless she's been asked to run in a game, she's able to  18 get along without pain.  19 Is that your same understanding and belief  20 for let's say the last -- since September of last year  21 or no?  22 <b>A. She does complain sometimes of pain in her leg</b>  23 <b>and she has to take some Advil. But it's usually after</b>  24 <b>some sort of activity.</b>  25 Q. If I was a relative of yours staying in your</p>	<p style="text-align: right;">Page 15</p> <p>1 <b>A. She's limping as she's getting to the front</b>  2 <b>door.</b>  3 Q. Okay. Once she gets to the front door in your  4 example, and I like it, and she greets the people and  5 they're coming in the house and she's no longer walking  6 fast, she's not limping?  7 <b>A. If she's walking normal, no.</b>  8 Q. Have y'all had to have any orthotics put in?  9 <b>A. No.</b>  10 Q. Okay. Can you think of any other examples  11 other than going to the front door? I mean, if she --  12 if she's going up to her bedroom to get something that  13 she needs for downstairs and she comes back downstairs,  14 can she bound down the stairs as a child might -- is  15 that right, bound downstairs?  16 <b>A. Run down the stairs, yes, but you see her --</b>  17 Q. Favoring?  18 <b>A. Favoring -- she basically holds onto the rail</b>  19 <b>and puts more weight on that side and leaving her leg</b>  20 <b>like breaking her drop.</b>  21 Q. Okay. But could I go a day in the house or two  22 days without seeing that? Just --  23 <b>A. No, you would see it.</b>  24 Q. It's almost every day?  25 <b>A. It's every day.</b></p>
<p style="text-align: right;">Page 14</p> <p>1 house and had not seen your daughter in four or five  2 years and stayed a weekend and a day in a house and  3 whatever y'all do during, you know, a weekend.  4 <b>A. Uh-huh.</b>  5 Q. Would it be your belief that I as a relative  6 would leave there not even knowing she has ever  7 sustained a broken leg?  8 <b>A. You would notice.</b>  9 Q. What would I notice?  10 <b>A. Her limping.</b>  11 Q. Okay. Limping all the time, some of the time?  12 <b>A. Some of the time.</b>  13 Q. When do you see as a mother her limping more or  14 the times? Is there a common denominator, end of the  15 day, beginning of the day, after activities?  16 <b>A. Anytime that she goes a little bit faster than</b>  17 <b>just walking.</b>  18 Q. Okay. Tell me an example what you -- when I  19 might see that.  20 <b>A. When she goes from the kitchen to answer the</b>  21 <b>door or the hallway, you see her running down the</b>  22 <b>hallway.</b>  23 Q. Then would she limp after she opens the front  24 door and greets somebody for a period of time or is she  25 limping as she gets to the front door?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Okay. The Advil is just over the counter  2 Advil?  3 <b>A. Uh-huh.</b>  4 Q. Is that a "yes"?  5 <b>A. Yes. Sorry.</b>  6 Q. What did the doctor tell you the last time you  7 saw him in November of '09?  8 <b>A. That we discussed starting her on games and he</b>  9 <b>said that -- like soccer, because I wanted to get her</b>  10 <b>back into some sort of activity. And he told me not to</b>  11 <b>do anything until just wait for the summer. Or I</b>  12 <b>believe he said just hold off on everything right now</b>  13 <b>until her bone healed.</b>  14 Q. Okay. And did he ask y'all to see that she  15 does stretching exercises?  16 <b>A. Yes.</b>  17 Q. And is she doing that?  18 <b>A. Yes, she is.</b>  19 Q. What type of stretching exercise is she doing?  20 <b>A. She -- she lays down on the bed and she lifts</b>  21 <b>up her -- I put pressure on her foot and she bends it up</b>  22 <b>and down, up and down.</b>  23 Q. Okay. Is that what he showed y'all to do?  24 <b>A. Uh-huh.</b>  25 Q. Okay.</p>

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<p style="text-align: right;">Page 17</p> <p>1 MR. BROWN: Is that a "yes"?</p> <p>2 <b>A. Yes. And he also basically said for her to</b></p> <p>3 <b>ride her bike, some activity with a bike.</b></p> <p>4 <b>BY MR. SHEINESS:</b></p> <p>5 Q. Okay. And is she doing that?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Where does she ride the bike?</p> <p>8 <b>A. Around the neighborhood, but not very often.</b></p> <p>9 Q. Is it because of the weather or just, you know,</p> <p>10 the area? Why is she not doing it more?</p> <p>11 <b>A. The weather.</b></p> <p>12 Q. Okay.</p> <p>13 <b>A. The weather and if it's a school -- I don't</b></p> <p>14 <b>want her to -- it's a school day or anything like that,</b></p> <p>15 <b>she can do this on the weekends but I don't want her to</b></p> <p>16 <b>affect it not going to school the next day because of</b></p> <p>17 <b>her leg hurting.</b></p> <p>18 Q. Okay. Has she been riding on weekends as best</p> <p>19 you can let her do it?</p> <p>20 <b>A. Not often. But we did get a stationary remote</b></p> <p>21 <b>thing that she can just do that activity at home. And</b></p> <p>22 <b>she has it in her room.</b></p> <p>23 Q. Okay. Is it a stationary bike or --</p> <p>24 <b>A. It's just the pedals.</b></p> <p>25 Q. Just the pedals?</p>	<p style="text-align: right;">Page 19</p> <p>1 <b>A. I don't know.</b></p> <p>2 Q. Okay. Were any measurements ever taken?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And what -- how many different times were</p> <p>5 measurements taken, do you recall?</p> <p>6 <b>A. I believe two or three.</b></p> <p>7 Q. Okay. And as far as you know, they were equal</p> <p>8 at the time?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Were they ever equal or were they always</p> <p>11 different?</p> <p>12 <b>A. They were -- I don't know.</b></p> <p>13 Q. Okay. But Dr. Brock did those?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Okay. Is her reading caught up, by the way?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. She was behind in reading.</p> <p>18 Oh, yeah. Dr. Deborah Bootin at 7400</p> <p>19 Fannin, Suite 900, Houston.</p> <p>20 <b>A. Uh-huh.</b></p> <p>21 Q. We've ordered those records.</p> <p>22 Now, you handed me an Aetna, but somebody</p> <p>23 wrote down United Healthcare.</p> <p>24 <b>A. That was before then.</b></p> <p>25 Q. Okay. So for this accident, though, it was all</p>
<p style="text-align: right;">Page 18</p> <p>1 <b>A. Uh-huh.</b></p> <p>2 Q. Okay. Yeah.</p> <p>3 What do -- did the doctor in November</p> <p>4 of '09 say come back May or June or just say come back</p> <p>5 if you need to, what was his parting remarks?</p> <p>6 <b>A. He basically wanted us to follow up. And I</b></p> <p>7 <b>need to make another appointment.</b></p> <p>8 Q. Okay. And when you left in '09, did he say</p> <p>9 when or just say come back in the spring or do you</p> <p>10 recall what his words were as he left?</p> <p>11 <b>A. I don't recall.</b></p> <p>12 Q. Okay. What do you think he had hopefully</p> <p>13 anticipated finding from what he said in '09 when you</p> <p>14 come back this spring?</p> <p>15 <b>A. That he's hoping to find?</b></p> <p>16 Q. Uh-huh.</p> <p>17 <b>A. That her leg is growing normal.</b></p> <p>18 Q. Okay.</p> <p>19 <b>A. And the growth plate is not -- the growth plate</b></p> <p>20 <b>-- the spur in the growth plate is not affecting the</b></p> <p>21 <b>growth of the leg.</b></p> <p>22 Q. Okay. When you see her limping, and I know</p> <p>23 you're not a medical provider, but do you -- is it to</p> <p>24 you from your viewpoint more favoring the knee or one</p> <p>25 leg is shorter than the other, if you know?</p>	<p style="text-align: right;">Page 20</p> <p>1 Aetna?</p> <p>2 <b>A. No. No. My job changed insurances.</b></p> <p>3 Q. Oh, okay.</p> <p>4 <b>A. So it could be that that was -- yeah. It was a</b></p> <p>5 <b>couple of years ago.</b></p> <p>6 Q. All right.</p> <p>7 <b>A. I think it was with my husband's other</b></p> <p>8 <b>employer.</b></p> <p>9 Q. All right. So I would have to obtain the</p> <p>10 records from both United -- for this accident, if I</p> <p>11 wanted to get all the medical bills incurred since --</p> <p>12 <b>A. August '08.</b></p> <p>13 Q. -- August '08, I would need both United</p> <p>14 Healthcare as well as the Aetna?</p> <p>15 <b>A. Right.</b></p> <p>16 Q. Okay. What made you decide to sign up for Life</p> <p>17 Time Fitness for your daughter?</p> <p>18 <b>A. I saw that -- I saw research regarding more</b></p> <p>19 <b>activity for kids and it looked like a fun thing for</b></p> <p>20 <b>summer.</b></p> <p>21 Q. Okay. Did any of your other friends have their</p> <p>22 daughters enrolled?</p> <p>23 <b>A. No. I didn't know anybody. I just Googled it</b></p> <p>24 <b>and I saw that it had child care and it seemed very nice</b></p> <p>25 <b>and safe.</b></p>

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<p style="text-align: right;">Page 21</p> <p>1 Q. Okay. And is that a true and correct 2 participation agreement filled out by you and signed by 3 you on behalf of Cristiana? 4 <b>A. I believe so.</b> 5 Q. Is that your signature on the second page? 6 <b>A. Yes, sir.</b> 7 Q. Let me mark that as Exhibit A. 8 COURT REPORTER: 1. 9 MR. SHEINESS: Exhibit 1. 10 (Exhibit No. 1 marked.) 11 BY MR. SHEINESS: 12 Q. When you -- when you filled that out, do you 13 recall where you were? Were you there or did you take a 14 package home to sign? 15 <b>A. I was right there.</b> 16 Q. Okay. Had you ever signed such an agreement 17 before for your child, any other child, yourself, 18 anywhere else to your knowledge? 19 Was this the first time you had signed such 20 an agreement? 21 <b>A. The first I've signed an agreement like this.</b> 22 Q. Do you feel now that you looking back you were 23 rushed or forced to sign this agreement? 24 <b>A. I was in a rush, yes.</b> 25 Q. Okay. Could you have taken this home and read</p>	<p style="text-align: right;">Page 23</p> <p>1 <b>A. Yes, I did.</b> 2 Q. How many different times did you go? 3 <b>A. Just one time.</b> 4 Q. And tell me what happened when you went by 5 there. 6 <b>A. I saw the people, checked in. I talked to the 7 lady responsible for enrolling the children. They 8 showed me around as far as the rock climbing. They 9 showed me where she was going to be at in the gym and 10 the changing room. And then they let me know that they 11 were going to be going out to the pool.</b> 12 Q. Okay. Did you have the opportunity if you 13 wanted to tour the whole facility or more than the 14 facility that was shown you? 15 <b>A. They didn't mention it, but I assume they would 16 have.</b> 17 Q. Okay. Approximately how long were you out 18 there that day? 19 <b>A. I don't remember.</b> 20 Q. Was Cristiana (sic) with you? 21 <b>A. No.</b> 22 Q. Okay. 23 <b>A. Cristina.</b> 24 Q. Cristina. I apologize. 25 Was your husband with you?</p>
<p style="text-align: right;">Page 22</p> <p>1 it and brought it back the next day with your child the 2 next day? 3 <b>A. I was dropping her off that day. I could not 4 do that.</b> 5 Q. But that was your choice to drop her off that 6 day? Was there a day that had to be that day? 7 <b>A. Well, it was either that day or I would have to 8 not put her in there that day.</b> 9 Q. Okay. It was a start of a class? 10 <b>A. Right.</b> 11 Q. Okay. And how many days before this June 16th 12 had you Googled them and saw what classes they had for 13 your daughter? 14 <b>A. No. It was just to leave her there for day 15 care.</b> 16 Q. I understand that. 17 But from the time you decided to go and -- 18 go to Life Time Fitness and enroll your daughter, how 19 many days from the day you actually arrived there to get 20 that done. 21 <b>A. Oh, I don't remember.</b> 22 Q. I mean, more than just a day? 23 <b>A. Yes.</b> 24 Q. Okay. Did you ever visit Life Time Fitness 25 center before you dropped her off?</p>	<p style="text-align: right;">Page 24</p> <p>1 <b>A. No.</b> 2 Q. Okay. How many other documents did you have, 3 if you recall, to sign other than the participation 4 agreement? 5 <b>A. I don't remember.</b> 6 Q. Is it going to be your position that you didn't 7 get a chance to read it, you didn't understand it all, 8 you were forced to sign it or anything like that? 9 <b>A. Well, I didn't read it. I just signed it.</b> 10 Q. Okay. Did you not read it because you needed 11 to get on to work or what? 12 <b>A. I didn't read it because the place looked very 13 nice. Everything looked fine. I thought this was a 14 regular agreement that, you know, I will be responsible 15 if anything would happen to Cristina. But I did not 16 think that it was not going to be because it was not 17 safe.</b> 18 Q. I understand that. 19 And although you had not ever signed one 20 like this before for any other child, the fact that you 21 were asked to sign it didn't surprise you, did it, in 22 today's world -- 23 <b>A. No. No, it didn't.</b> 24 Q. -- or shock you in any way? 25 <b>A. It didn't.</b></p>

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<p style="text-align: right;">Page 25</p> <p>1 Q. Okay. And she got hurt on the first day she 2 was there? 3 <b>A. No.</b> 4 Q. Okay. How many days was it, had she been going 5 there? 6 <b>A. She had been there since June -- I mean, school</b> 7 <b>ended which I believe this was like --</b> 8 Q. June -- 9 <b>A. -- 16, '08.</b> 10 Q. Right. So she had been going from June until 11 August 8th? 12 <b>A. No.</b> 13 Q. No. 14 All right. Tell me -- you sign her on 15 June 16th. 16 <b>A. Uh-huh.</b> 17 Q. You let her off? 18 <b>A. She signed on June 16th, and I don't have all</b> 19 <b>that paperwork, but then I put her in another facility.</b> 20 <b>It's called Kid College. And she went there for about</b> 21 <b>two weeks. It was strictly school type of setting. And</b> 22 <b>then I brought her back to Life Time Fitness.</b> 23 Q. Okay. Now, how long was she at Life Time 24 Fitness the first time? 25 <b>A. The very first time?</b></p>	<p style="text-align: right;">Page 27</p> <p>1 Q. Okay. So we'll have to go -- I have to find 2 somebody who is capable from now. Good help is just so 3 hard to find. 4 So we have to go from June 16th until 5 whatever day you enrolled her at Kids College? 6 <b>A. Uh-huh.</b> 7 Q. And then for two weeks at Kids College; 8 correct? 9 <b>A. Right.</b> 10 MR. SHEINESS: All right. And now, so I'm 11 going to request the date of starting the Kids College. 12 BY MR. SHEINESS: 13 Q. Now, let's just for our discussion day say it 14 was a week. 15 <b>A. Uh-huh.</b> 16 Q. She was at Life Time day care for a week and 17 then you put her in Kids College for two weeks. 18 During that week, would it be every weekday 19 that you would take her -- 20 <b>A. Yes.</b> 21 Q. -- and drop her off? 22 <b>A. Yes.</b> 23 Q. Okay. And as far as you know, in -- from 24 June 16th was -- assuming the weather was okay, was 25 swimming a part of the day?</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. Uh-huh. 2 <b>A. I don't recall.</b> 3 Q. Was she enrolled the first time in a particular 4 type of class that lasted a particular length of time? 5 <b>A. No. It was just a --</b> 6 Q. Oh, day care. 7 <b>A. Day care.</b> 8 Q. Okay. First time is day care, but she would be 9 using the pool? 10 <b>A. Yes. It was -- it was a summer thing. It was</b> 11 <b>open for the summer for the kids when they were out of</b> 12 <b>school.</b> 13 Q. And how long do you think you had her before 14 you took her to the other place? 15 <b>A. I don't remember.</b> 16 Q. All right. But would it be every weekday? 17 <b>A. I think it was about -- I don't remember.</b> 18 Q. Do you have any documents that might help you? 19 <b>A. Yes, I can. I can get you that.</b> 20 Q. All right. Tell me what you're thinking in 21 your mind that you have at your house. What type of 22 documents? 23 <b>A. I can get -- actually I can call Kid College</b> 24 <b>and see when I enrolled her in that and that was for</b> 25 <b>strictly two weeks.</b></p>	<p style="text-align: right;">Page 28</p> <p>1 <b>A. Yes.</b> 2 Q. And did she keep a bathing suit or did she take 3 one with her each day? 4 <b>A. Each day she would take one.</b> 5 Q. Okay. And as far as you know now, being around 6 that pool, being around the grate, she was around it 7 virtually every day for some period of time before you 8 took her to Kids College? 9 <b>A. Uh-huh.</b> 10 Q. Is that a "yes"? 11 <b>A. Yes. I'm sorry.</b> 12 Q. Kids College had no pool, no outside 13 activities? 14 <b>A. No.</b> 15 Q. Correct? 16 <b>A. Correct.</b> 17 Q. All right. Now, she's through there. 18 Now, you bring her back and at what -- do 19 you bring her back for a particular class or is it 20 different? 21 <b>A. No, it's the same thing.</b> 22 Q. Okay. 23 <b>A. It was just fun.</b> 24 Q. All right. Did you have to tell them when you 25 come back after a two week break or do you have to tell</p>

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<p style="text-align: right;">Page 29</p> <p>1 them you're going on vacation for two weeks and they 2 won't charge you or do they even know you've been gone 3 for two weeks? 4 <b>A. I don't think they knew but the girls knew who 5 I was and who Cristina was.</b> 6 Q. Right. But you don't have to start signing 7 paperwork again. You're under the -- as far as you were 8 concerned, under the same paperwork as when you started? 9 <b>A. Well, they told me that I needed to sign the 10 paperwork all over again --</b> 11 Q. All right. 12 <b>A. -- because she had been out.</b> 13 Q. Right. 14 <b>A. And they never gave me the paperwork. Every 15 morning when I would drop off Cristina, I would ask 16 about the paperwork and either the girl was not there or 17 they just say just leave the check here and I'll give it 18 to --</b> 19 Q. How were you paying? 20 <b>A. -- them.</b> 21 <b>By check.</b> 22 Q. By day, by check, by -- 23 <b>A. By week.</b> 24 Q. By week. 25 <b>A. Uh-huh.</b></p>	<p style="text-align: right;">Page 31</p> <p>1 BY MR. SHEINESS: 2 Q. Did they indicate it was any different than the 3 first paperwork? 4 <b>A. I think they mentioned -- I don't know. I 5 don't remember.</b> 6 Q. Hypothetically if you had been presented a 7 blank form, this same blank form at the beginning of the 8 second time, you would have signed it without 9 hesitation, wouldn't you? 10 <b>A. Yes.</b> 11 Q. Okay. So now she's there a second time, same 12 day care, same swimming around the pool almost every 13 day; correct? 14 <b>A. Uh-huh.</b> 15 Q. Is that a "yes"? 16 <b>A. Yes.</b> 17 Q. All right. Did she ever tell you anything 18 about the facilities that are bad. The water is dirty, 19 the bathrooms are dirty, anything like that that she 20 reported? 21 <b>A. No. I would have seen it and I would have said 22 something.</b> 23 Q. You would have said something. 24 And when you dropped her off each day, 25 where would you drop her off, out front?</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. Okay. So you paid for -- your checks would 2 also tell us -- 3 <b>A. Uh-huh.</b> 4 Q. -- as well? 5 <b>A. Yes.</b> 6 Q. Okay. So the checks would tell us the first 7 period of time and you probably took her or paid for at 8 least a full week; you agree -- 9 <b>A. Yes.</b> 10 Q. -- in all probability? 11 All right. How long was she there the 12 second time before she got hurt, approximately? 13 <b>A. I believe it was two weeks, but I'm not sure.</b> 14 Q. Again, we can look at the -- the last two-week 15 period that you were at the college place and go from 16 the end of that two-week period until August 8th and we 17 would know; correct? 18 <b>A. Yes, sir.</b> 19 Q. All right. As far as you were concerned, the 20 paperwork that you might have signed, would have signed, 21 could have signed, the second time would have been the 22 same participation agreement as you signed the first 23 time? 24 <b>A. I was not --</b> 25 MR. BROWN: Objection, speculation.</p>	<p style="text-align: right;">Page 32</p> <p>1 <b>A. At the gym.</b> 2 Q. Okay. And where would you pick her up each 3 day? 4 <b>A. At the gym.</b> 5 Q. So how would you have seen the facilities? 6 <b>A. Or the -- I would walk -- I would get there 7 early and walk in the pool area -- not the pool, the 8 lockers.</b> 9 Q. Did you ever use their facilities? 10 <b>A. No.</b> 11 Q. Did your husband? 12 <b>A. No.</b> 13 Q. Anybody that you know of? 14 <b>A. I believe my step daughter joined.</b> 15 Q. When did your step daughter join? 16 <b>A. I have no idea.</b> 17 Q. Before or after the incident? 18 <b>A. I have no idea.</b> 19 Q. And your step daughter's name is? 20 <b>A. Cloe Paz.</b> 21 Q. C-L-O-E? 22 <b>A. P-A-Z.</b> 23 Q. P-A-Z. 24 Okay. Have you talked -- after this -- 25 where were you when you heard your daughter had gotten</p>

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<p style="text-align: right;">Page 33</p> <p>1 hurt?</p> <p>2 <b>A. I was going home.</b></p> <p>3 Q. From?</p> <p>4 <b>A. Work.</b></p> <p>5 Q. Where were you working at time?</p> <p>6 <b>A. The Woman's Specialist of Houston.</b></p> <p>7 Q. And what type of business is that?</p> <p>8 <b>A. OB/GYN practice.</b></p> <p>9 Q. And what do you do there?</p> <p>10 <b>A. I'm a medical assistant.</b></p> <p>11 Q. And do you have an RN or --</p> <p>12 <b>A. There is an RN there.</b></p> <p>13 Q. Are you an RN?</p> <p>14 <b>A. No, I'm a medical assistant.</b></p> <p>15 Q. Medical assistant.</p> <p>16 Okay. How long have you been a medical</p> <p>17 assistant?</p> <p>18 <b>A. 22 years.</b></p> <p>19 Q. Always in the OB/GYN field?</p> <p>20 <b>A. Yes, sir.</b></p> <p>21 Q. Okay. Who contacted you?</p> <p>22 <b>A. My husband.</b></p> <p>23 Q. Okay. How did he know -- how was he contacted?</p> <p>24 <b>A. I believe -- well, he told me that he was at</b></p> <p>25 <b>the day care of Life Time Fitness and that they had</b></p>	<p style="text-align: right;">Page 35</p> <p>1 Q. I mean, you might. I just don't -- I just want</p> <p>2 to see where we were.</p> <p>3 Okay. You told your husband to do what?</p> <p>4 <b>A. That I would meet him at Texas Children.</b></p> <p>5 Q. Okay. Is that where you met at Texas Children?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Okay. Since that day till today, have you been</p> <p>8 back to Life Time center?</p> <p>9 <b>A. Never.</b></p> <p>10 Q. Have you sent anybody, your husband, lawyer,</p> <p>11 investigator, friend, to do -- to go back to Life Time</p> <p>12 center to check it out, take photographs, talk to</p> <p>13 anybody, to your knowledge?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Have you communicated with anyone at Life Time</p> <p>16 center past or present employee?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Has your husband, to your knowledge?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Have you visited any other Life Time center?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Has your husband, to your knowledge, or step</p> <p>23 daughter or anyone else?</p> <p>24 <b>A. No.</b></p> <p>25 Q. Has your step daughter provided you any</p>
<p style="text-align: right;">Page 34</p> <p>1 contacted him regarding my -- Cristina falling or</p> <p>2 hurting her knee and he asked me do you want me to take</p> <p>3 her to Texas Children or see a doctor over there. And I</p> <p>4 told him, no, go ahead and bring him to Texas Children.</p> <p>5 Q. Had she called him or coincidentally he was</p> <p>6 there to pick her up?</p> <p>7 <b>A. No, they called him.</b></p> <p>8 Q. They called him?</p> <p>9 <b>A. They tried calling me numerous times but my</b></p> <p>10 <b>phone didn't work and I just had a bunch of missed</b></p> <p>11 <b>calls.</b></p> <p>12 Q. Okay. Because I knew from the participation</p> <p>13 agreement they are supposed to be calling you?</p> <p>14 <b>A. Right.</b></p> <p>15 Q. And they had tried to called you?</p> <p>16 <b>A. They called. They tried.</b></p> <p>17 Q. Okay. You don't have any complaint with my</p> <p>18 client for not trying to contact you or your husband, do</p> <p>19 you? Or, I mean, trying to reach you after the</p> <p>20 incident?</p> <p>21 <b>A. Not -- no.</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. Regarding getting in touch with me?</b></p> <p>24 Q. Yes.</p> <p>25 <b>A. No.</b></p>	<p style="text-align: right;">Page 36</p> <p>1 information from whichever Life Time center she belongs</p> <p>2 to --</p> <p>3 <b>A. No.</b></p> <p>4 Q. Let me finish the question --</p> <p>5 <b>A. Oh.</b></p> <p>6 Q. -- so we -- just to make sure.</p> <p>7 About the facilities, about the</p> <p>8 construction, design or anything like that?</p> <p>9 <b>A. No.</b></p> <p>10 Q. The photographs that I showed your daughter,</p> <p>11 have you seen those before today?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Okay. You're welcome to. I mean, I sent them</p> <p>14 to your lawyer, but you have not seen them?</p> <p>15 <b>A. No, I just saw them now.</b></p> <p>16 Q. Okay. Have you seen the incident report</p> <p>17 prepared by my client right after the incident?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Okay. Tell me -- the records I have show that</p> <p>20 -- at Texas Childrens the -- who was there to give the</p> <p>21 history to the staff there, do you know?</p> <p>22 <b>A. My husband and I.</b></p> <p>23 Q. Where did you get the history at that point in</p> <p>24 time to tell them?</p> <p>25 <b>A. From my husband.</b></p>

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<p style="text-align: right;">Page 37</p> <p>1 Q. Where had he gotten it from?</p> <p>2 <b>A. The lifeguards that were there.</b></p> <p>3 Q. Okay. I'll ask him about it.</p> <p>4 As I discussed with your daughter, the</p> <p>5 medical records that I have show that she goes from --</p> <p>6 well, one entry that I see dated October '08 -- October</p> <p>7 of '08 from the school district.</p> <p>8 <b>A. Uh-huh.</b></p> <p>9 Q. Patient done well in the past nine weeks. We</p> <p>10 are so glad to see her walking getting around so well.</p> <p>11 Her reading level is 14. She will be need to be at a 28</p> <p>12 at the end of the second grade. She enjoys school and</p> <p>13 learning and this help. Her math skills are where they</p> <p>14 need to be now and we will be building on these.</p> <p>15 Do you recall that first period reporting?</p> <p>16 <b>A. I don't recall it.</b></p> <p>17 Q. Does it sound correct? And that would be as of</p> <p>18 October of '08.</p> <p>19 Would that be your description as well of</p> <p>20 her -- as her -- of her at that time?</p> <p>21 <b>A. I don't -- I don't recall it.</b></p> <p>22 Q. Okay. Same month, October of '08. Strike</p> <p>23 that.</p> <p>24 Two months later, December of '08, from</p> <p>25 Dr. Brock: Patient continues to look great. Limping</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. -- show a break.</p> <p>2 Okay. The records show on May 12 or his</p> <p>3 records show patient went to the beach and played and</p> <p>4 jumped all day Saturday. On Saturday night she woke up</p> <p>5 with a lot of pain in the leg.</p> <p>6 Is that the history you gave to Dr. Brock?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. He also -- she -- Dr. Brock notes she does not</p> <p>9 feel pain, but she is scared.</p> <p>10 Do you recall that?</p> <p>11 <b>A. No.</b></p> <p>12 Q. On May -- that same May 12, '09, it says:</p> <p>13 Patient was playing at the beach on May 10 where she was</p> <p>14 jumping up and down all day and riding a bicycle in a</p> <p>15 standing position.</p> <p>16 Did you give him that history?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Who would have given a history to Dr. Brock</p> <p>19 other than you?</p> <p>20 <b>A. I don't know, but she was not riding a bike.</b></p> <p>21 Q. Okay. Who was at the beach as she described</p> <p>22 you and --</p> <p>23 <b>A. A friend of mine, Cristina and I. It was for</b></p> <p>24 <b>Mother's Day.</b></p> <p>25 Q. And you all three were the only ones?</p>
<p style="text-align: right;">Page 38</p> <p>1 just a little bit, but so far so good. She's no longer</p> <p>2 having any pain. Follow-up in six months with an x-ray.</p> <p>3 Do you recall being told that in December</p> <p>4 of '08 by Dr. Brock?</p> <p>5 <b>A. I don't recall it.</b></p> <p>6 Q. Okay. And then on that same time he notes:</p> <p>7 Return to school. Was in the office today. He -- has</p> <p>8 now recovered sufficiently to be able to return to</p> <p>9 activities.</p> <p>10 Do you recall that from Dr. Brock advising</p> <p>11 you of that on December 2nd, 2008?</p> <p>12 <b>A. I don't recall it.</b></p> <p>13 Q. I go in the records that I've obtained from</p> <p>14 December of '08. The next medical record I have is May</p> <p>15 12th of '09.</p> <p>16 Does that sound correct to you?</p> <p>17 <b>A. December '08 --</b></p> <p>18 Q. To May 12.</p> <p>19 <b>A. I remember May. I remember May. I don't</b></p> <p>20 <b>remember --</b></p> <p>21 Q. Do you remember her seeing any doctor between</p> <p>22 December 2nd, 2008 and May 12th, 2009?</p> <p>23 <b>A. It would be only Dr. Brock.</b></p> <p>24 Q. Okay. And if his records show a break --</p> <p>25 <b>A. If it's -- right.</b></p>	<p style="text-align: right;">Page 40</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And what's the name of the friend?</p> <p>3 <b>A. Becky McKay.</b></p> <p>4 Q. Okay. And how would you reach Becky McKay if I</p> <p>5 wanted to talk to Becky McKay?</p> <p>6 <b>A. I can give you her number.</b></p> <p>7 MR. SHEINESS: And I request her number.</p> <p>8 BY MR. SHEINESS:</p> <p>9 Q. We go from May 12 to May 25th of '09. And the</p> <p>10 office visit history from Dr. Brock says it bothers her</p> <p>11 sometimes once a week and sometimes not at all.</p> <p>12 Recently the family had a really active day and while</p> <p>13 they were visiting their grandmother in the nursing</p> <p>14 home, Cristina started complaining of a lot of pain in</p> <p>15 the knee and that night it was even worse.</p> <p>16 Do you recall that?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Was there anything particularly going on at the</p> <p>19 nursing home activitywise?</p> <p>20 <b>A. She was just -- it was before we got to the</b></p> <p>21 <b>nursing home. She had just been running around, nothing</b></p> <p>22 <b>-- just running. Anytime that she would -- this</b></p> <p>23 <b>happened twice. Anytime that she would overdo herself,</b></p> <p>24 <b>she would complain of severe pain and it would just kick</b></p> <p>25 <b>on.</b></p>

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<p style="text-align: right;">Page 41</p> <p>1 Q. How long would it last?</p> <p>2 <b>A. Two days. About two days.</b></p> <p>3 Q. Would Advil and Motrin seem to help or not?</p> <p>4 <b>A. No, it wouldn't help.</b></p> <p>5 Q. What is an "S" and an "E" at Oyster Creek</p> <p>6 Elementary? I need to ask you that, although I don't</p> <p>7 have children.</p> <p>8 <b>A. Satisfactory or excellent.</b></p> <p>9 Q. She got three S's and one E.</p> <p>10 Is that good?</p> <p>11 <b>A. Uh-huh. That's good, yeah.</b></p> <p>12 Q. I got all F's so I...</p> <p>13 When the doctor writes or Texas Children</p> <p>14 writes on October 22, '09 not experiencing any pain now,</p> <p>15 is that -- is it your understanding because that's that</p> <p>16 day or is that just generally that period of time?</p> <p>17 <b>A. That day. What day was that?</b></p> <p>18 Q. October 22nd, 2009 Texas Childrens Hospital.</p> <p>19 <b>A. Texas Children Hospital?</b></p> <p>20 Q. Right. TCH.</p> <p>21 <b>A. No, that would be Dr. Brock's office.</b></p> <p>22 Q. Or is that Dr. Antekeier?</p> <p>23 <b>A. Antekeier.</b></p> <p>24 Q. Antekeier.</p> <p>25 <b>A. At that time. She was --</b></p>	<p style="text-align: right;">Page 43</p> <p>1 Q. Okay. I also discussed watching her weight so</p> <p>2 she does not overload her knees.</p> <p>3 Do you recall him talking to you about</p> <p>4 that?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Okay. And then Dr. Brock did the procedure;</p> <p>7 correct?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Okay. Was it that day or was she an overnight?</p> <p>10 <b>A. It was an overnight.</b></p> <p>11 Q. How many nights did she stay?</p> <p>12 <b>A. She stayed -- one night she stayed over one</b></p> <p>13 <b>night because of the pain.</b></p> <p>14 Q. Okay. It says it was a day surgery unit is</p> <p>15 where it took place?</p> <p>16 <b>A. Uh-huh.</b></p> <p>17 Q. That's the reason I asked.</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. But she stayed over another night?</p> <p>20 <b>A. She stayed a night because the incision was</b></p> <p>21 <b>larger than they had to do and --</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. -- they put a pump -- a pain pump overnight.</b></p> <p>24 Q. Okay. That would have been in October of --</p> <p>25 November of '09; correct?</p>
<p style="text-align: right;">Page 42</p> <p>1 Q. And that was -- right.</p> <p>2 You mean that at that time that day --</p> <p>3 <b>A. That day.</b></p> <p>4 Q. -- or that general area of days?</p> <p>5 <b>A. That day.</b></p> <p>6 Q. It says there, not pain is not while you're</p> <p>7 visiting the clinic.</p> <p>8 Is that because you were going for a second</p> <p>9 opinion?</p> <p>10 <b>A. Second opinion.</b></p> <p>11 Q. Okay. She still playing with video games?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. All right. And Dr. David Antekeier in his</p> <p>14 plan, do you recall reading his plan or telling you what</p> <p>15 his plan was?</p> <p>16 <b>A. Basically he agreed with Dr. Brock's diagnosis</b></p> <p>17 <b>and to do the surgery.</b></p> <p>18 Q. It says I would like for her to return to all</p> <p>19 levels of activities. I have discussed the importance</p> <p>20 of stretching it and at her age she may have a condition</p> <p>21 that could requires maybe both Motrin and ice after</p> <p>22 activities. Did he discuss that with you?</p> <p>23 Particularly stretching would be important</p> <p>24 before activities. Did he discuss that with you?</p> <p>25 <b>A. I don't remember.</b></p>	<p style="text-align: right;">Page 44</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And she returned to school on November 16th of</p> <p>3 '09?</p> <p>4 <b>A. Yes, sir.</b></p> <p>5 Q. Has she missed any time from work or --</p> <p>6 <b>A. From school.</b></p> <p>7 Q. -- from school?</p> <p>8 <b>A. Right. I'm sorry.</b></p> <p>9 Q. It's a long day and it's Friday.</p> <p>10 She did not fall behind, did she?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. How far behind did she fall? Has she made it</p> <p>13 up or not?</p> <p>14 <b>A. She's made it up now.</b></p> <p>15 Q. Okay. And -- okay. Let me see that.</p> <p>16 MR. SHEINESS: I still want a copy, but</p> <p>17 it's in here, too.</p> <p>18 BY MR. SHEINESS:</p> <p>19 Q. You must have switched over in November of '09</p> <p>20 because now they switch over to Aetna.</p> <p>21 <b>A. Probably.</b></p> <p>22 Q. Okay. When did you buy the pedals for her at</p> <p>23 the home, do you know?</p> <p>24 <b>A. We didn't buy them. My mother-in-law give them</b></p> <p>25 <b>to us.</b></p>

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<p style="text-align: right;">Page 45</p> <p>1 Q. Okay. When was that?</p> <p>2 <b>A. I don't recall.</b></p> <p>3 Q. The notation from Dr. Brock which I think is</p> <p>4 the last time he saw her, correct, November 17th of '09?</p> <p>5 <b>A. Yes, sir.</b></p> <p>6 Q. Says x-rays looked good. She is very</p> <p>7 comfortable and is already putting weight on the leg</p> <p>8 without pain. She may increase her weight bearing as</p> <p>9 tolerated. We'll see her back in two weeks to check</p> <p>10 motion and strength in her leg but no further x-rays</p> <p>11 will be necessary.</p> <p>12 Assuming I have that down correct, you have</p> <p>13 not returned, though?</p> <p>14 <b>A. No, he have not.</b></p> <p>15 Q. Okay. Whatever you know about the incident,</p> <p>16 have you -- is second or third hand or have you talked</p> <p>17 to someone who witnessed the incident besides talking to</p> <p>18 your daughter, of course?</p> <p>19 <b>A. Besides talking to my daughter?</b></p> <p>20 Q. Right.</p> <p>21 <b>A. My husband.</b></p> <p>22 Q. Okay. He did not witness it, did he?</p> <p>23 <b>A. No.</b></p> <p>24 Q. Okay. You heard her description of what she</p> <p>25 was doing at the time.</p>	<p style="text-align: right;">Page 47</p> <p>1 house that you might be familiar with. Can you think of</p> <p>2 anything that you're familiar with that rests on</p> <p>3 something like that?</p> <p>4 MR. BROWN: Objection.</p> <p>5 BY MR. SHEINESS:</p> <p>6 Q. At your house?</p> <p>7 How about out front of your house, have you</p> <p>8 ever gone out there to see what your water sprinkler or</p> <p>9 your water supply box looks like?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Okay. Have you done any investigation or your</p> <p>12 husband or anyone else other than your lawyer on the</p> <p>13 internet, dealing with other accidents or incidents with</p> <p>14 this type of grating system?</p> <p>15 <b>A. No.</b></p> <p>16 Q. I'll take all that back.</p> <p>17 <b>A. (Tendering).</b></p> <p>18 Q. You don't have any -- again, you don't have any</p> <p>19 idea what the deductible was on either policy?</p> <p>20 <b>A. I sure don't.</b></p> <p>21 Q. Did you meet the deductible on both policies,</p> <p>22 though?</p> <p>23 <b>A. I don't know.</b></p> <p>24 MR. SHEINESS: Okay. That's all the</p> <p>25 questions that I have. Thank you, ma'am.</p>
<p style="text-align: right;">Page 46</p> <p>1 Is that consistent, little consistent,</p> <p>2 inconsistent with what she's told you immediately</p> <p>3 afterwards how it occurred?</p> <p>4 <b>A. Consistent.</b></p> <p>5 Q. Okay. Do you understand what your daughter and</p> <p>6 I were talking about how there's a drop and a lip that</p> <p>7 these things all sit on?</p> <p>8 Do you understand what we were talking</p> <p>9 about?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Seeing this photograph that your daughter was</p> <p>12 using, holding up, you have the grates that run the</p> <p>13 entire parameter. They're about three feet long, about</p> <p>14 four or five inches wide.</p> <p>15 Do you see what I'm talking about? And you</p> <p>16 see how they are flush?</p> <p>17 <b>A. Uh-huh.</b></p> <p>18 Q. Is that a "yes"?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. And assuming they rest on the length</p> <p>21 sides, they're butting, there is one, two, three. There</p> <p>22 is one, two -- there is three. And there's a lip that</p> <p>23 these are all are laying on.</p> <p>24 <b>A. Yes, sir.</b></p> <p>25 Q. I'm trying to think of something around your</p>	<p style="text-align: right;">Page 48</p> <p>1 THE WITNESS: Thank you.</p> <p>2 MR. BROWN: We will reserve our questions</p> <p>3 for trial.</p> <p>4 VIDEOGRAPHER: We're off the record. The</p> <p>5 time is 2:30 p.m.</p> <p>6</p> <p>7 (DEPOSITION CONCLUDED AT 2:30 P.M.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 49</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: MIRARIS RUTH PAZ</p> <p>3 DATE OF DEPOSITION: MARCH 19, 2010</p> <p>4 PAGE LINE CHANGE</p> <p>5 REASON</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>	<p style="text-align: right;">Page 51</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE SOUTHERN DISTRICT OF TEXAS</p> <p>3 HOUSTON DIVISION</p> <p>4 PABLO PAZ, INDIVIDUALLY )</p> <p>5 AND A/N/F MIRARIS RUTH )</p> <p>6 PAZ, A MINOR, AND RUTH )</p> <p>7 PAZ, )</p> <p>8 ) CIVIL ACTION</p> <p>9 VS. )</p> <p>10 ) NO.: 4:09-CV-2804</p> <p>11 )</p> <p>12 LIFE TIME FITNESS, INC., )</p> <p>13 LTF CMBS 1, LLC, LTF CLUB )</p> <p>14 MANAGEMENT COMPANY, LLC, )</p> <p>15 LTF CLUB OPERATIONS )</p> <p>16 COMPANY, INC. And GENE )</p> <p>17 SMITH )</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 50</p> <p>1 I, MIRARIS RUTH PAZ, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted above.</p> <p>4</p> <p>5</p> <p>6 _____</p> <p>7 MIRARIS RUTH PAZ</p> <p>8</p> <p>9 THE STATE OF TEXAS:</p> <p>10 COUNTY OF HARRIS:</p> <p>11</p> <p>12 BEFORE ME, _____, on this day</p> <p>13 personally appeared MIRARIS RUTH PAZ, known to me to be</p> <p>14 the person whose name is subscribed to the foregoing</p> <p>15 instrument and acknowledged to me that they executed the</p> <p>16 same for the purposes and consideration therein</p> <p>17 expressed.</p> <p>18</p> <p>19 Given under my hand and seal of office this</p> <p>20 _____ day of _____, 2010.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 52</p> <p>1 parties and/or the witness shown herein on</p> <p>2 _____.</p> <p>3 I further certify that pursuant to FRCP Rule</p> <p>4 30(f)(1) that the signature of the deponent:</p> <p>5 _____ was requested by the deponent or a party</p> <p>6 before the completion of the deposition and that the</p> <p>7 signature is to be before any notary public and returned</p> <p>8 within 30 days from date of receipt of the transcript.</p> <p>9 If returned, the attached Changes and Signature Page</p> <p>10 contains any changes and the reasons therefore:</p> <p>11 _____ was not requested by the deponent or a party</p> <p>12 before the completion of the deposition.</p> <p>13 I further certify that I am neither counsel for,</p> <p>14 related to, nor employed by any of the parties or</p> <p>15 attorneys in the action in which this proceeding was</p> <p>16 taken, and further that I am not financially or</p> <p>17 otherwise interested in the outcome of the action.</p> <p>18 Certified to by me on this, the _____ day of</p> <p>19 _____, 2010.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

**RESOURCE REPORTING SERVICE**  
**(713) 626-2629**

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	Page 53
1	COUNTY OF HARRIS:
2	STATE OF TEXAS:
3	I hereby certify that the witness was notified on
4	_____ that the witness has 30 days or
5	(____ days per agreement of counsel) after being
6	notified by the officer that the transcript is available
7	for review by the witness and if there are changes in
8	the form or substance to be made, then the witness shall
9	sign a statement reciting such changes and the reasons
10	given by the witness for making them;
11	That the witness' signature was/was not returned as
12	of _____.
13	Subscribed and sworn to on this, the _____ day of
14	_____, 2010.
15	
16	
17	
18	_____
19	Kevin J. Bruzewski, CSR
	Certification No. 3727
	Expires: December 31, 2011
20	
	Firm ID No. 578
21	1225 North Loop West, Suite 327
	Houston, Texas 77008
22	713.626.2629
23	
24	
25	